

## **AGENCY MEMBERS PRESENT**

Caldwell, Gene, M.D., Chair  
Atchley, Bryan, Vice Chair  
Collier, David, M.D., designee for the TennCare Director  
Jones, Clark  
Koella, Carl, III,  
Lammert, Gregory  
Troy, Peggy  
Weaver, Faye, designee for the Comptroller of the Treasury

## **AGENCY MEMBERS ABSENT**

Flowers, Paula, Commissioner of Commerce and Insurance  
Handorf, Charles, M.D.

## **COURT REPORTER**

Kathy Wilson

## **AGENCY STAFF PRESENT**

Hill, Melanie, Executive Director  
Bobbitt, Melissa, Administrative Services Assistant II  
Brogden, Reid, General Counsel  
Christoffersen, Jim, Deputy General Counsel  
Farber, Mark, Assistant Executive Director  
Finchum, Rhonda, Office Manager  
Wells, Phil, Health Planner III

## **GUESTS PRESENT**

Achuff, Dick, Department of Health, Division of Policy and Planning  
Aschner, Judy, M.D., Professor of Pediatrics, Chief of Neonatology, Vanderbilt's Children Hospital  
Baker, E. Graham, Esq., Weeks, Anderson, & Baker  
Ball, Charles, M.D., Medical Director, Maury Regional Hospital  
Bell, Karen, Director, Elk Valley Health  
Biggs, Jeremy, St. Mary's Health System  
Brent, Michael D., Esq., Boulton, Cummings, Connors & Berry  
Benton, Tony, Mountain States Health Alliance  
Brown, Dere, NHC  
Burch, Wilnot C., M.D., Franklin Endoscopy Center  
Burks, Amy, Tennessee Quality Hospice  
Burns, Michael, HHC of West Tennessee  
Carter, Nadean, Weeks, Anderson & Baker  
Caudill, Max, M.D., Franklin Endoscopy Center  
Clark, Jr., Jack C., M.D., Summit Medical Group  
Cochran, Sheila, Business Office Director, Priority Healthcare Services  
Cole, Donald A., Mid-Tennessee  
Cook, Sheila, Board Member, Helping Hands Home Assistance, Inc.  
Corritore, Danell, Department of Health  
Craig, David, Management Consultant, All Care Plus, Inc.  
Cravens, Tom, Esq., Kramer, Rayson, Leake, Rodgers & Morgan  
Day, Edwin, Consultant  
DeHaven, Mickie, Director Women's/Children's Services, Maury Regional Hospital  
Delph, Benjamin, Bass, Berry & Sims  
Ellis, LaTonya, Tennessee General Assembly  
Elrod, Dan H., Esq., Miller & Martin  
Fields, Tamera, Mountain States Health Alliance  
Gammon, Katy, Director of Division of Licensure, Department of Health

HEALTH SERVICES AND DEVELOPMENT AGENCY

FEBRUARY 22, 2006 MEETING

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Gardner, Andy, Director, Hospice of West Tennessee  
Gooch, Warren, Esq., Kramer, Rayson, Leake, Rodgers & Morgan, LLP  
Grace, Frank, Esq., Waller, Lansden & Dortch  
Helton, Peggy, Administrator, Interim Healthcare of East Tennessee  
Hinson, Mike, ASR, Tennessee Quality Hospice  
Hogan, Brenda, RN, Clinical Outgoing Manager, Maury Regional Hospital  
Hove, Bart, CEO, Bristol Regional Medical Center  
Huggins, Mike  
Jahanzeb, Mohammad, M.D., UT Cancer Institute  
Jarnagin, Sandy, General Partner, Interim Healthcare of East Tennessee  
Johnstone, William H., M.D., Bristol Regional Medical Center  
Kam, Jack, Vice President Clinical Services, Summit Medical Group  
Klein, Rodger, COO, Williamson Medical Center  
Lake, Victoria, Jackson-Madison County Healthcare  
Leech, Robert, Unity Hospice  
Lodge, Richard, Esq., Bass, Berry & Sims  
Looney, Kim, Esq., Waller, Lansden, Dortch & Davis  
Mashburn, Tim, UT Cancer Institute  
Matijevich, Eli, Senior Vice President, St. Mary's Health System  
Maxey, Gary, Alive Hospice and Tennessee Hospice Organization  
McClauahan, Brenda, Smoky Mountain Home Health & Hospice  
McDearman, Scott, Esq., Grant, Konvalinka & Harrison, PC  
Merville, LaDonna, Hospital Alliance of Tennessee  
Middlebrook, James C., CEO, Helping Hands Home Assistance, Inc.  
Miller, Dennis E., CEO, Williamson Medical Center  
Ockerman, Jeff, Stites & Harbison  
Perschbacher, Tynan, Senior Associate, Oncology Solutions, LLC  
Phillips, Brant, Bass, Berry & Sims  
Pope, Ron, Associate Administrator, Maury Regional Hospital  
Reece, Agnes A., Helping Hands Home Assistance  
Richardson, Mike, Vice President Planning & Business Development, Covenant Health  
Roberts, Ann, Priority Healthcare  
Ross, James E., Vice President, Hospice of West Tennessee  
Russell, Richard, THCA  
Saxena, Rishi, M.D.  
Schlee, Jan, Helping Hands Home Assistance, Inc.  
Searcy, Jason, Planning Analyst, Bristol Regional Medical Center  
Sergas, Mark, Mountain States Health Alliance  
Stephenson, Kate, Esq., Trauger & Tuke  
Sydow, Phil, CEO, UT Cancer Institute  
Taylor, Jerry W., Esq., Farris, Mathews, Branan, Bobango, Hellen & Dunlap, PLC  
Thompson, Ann R., Tennessee Department of Health  
Trauger, Byron, Esq., Trauger & Tuke  
Traylor, Linnie Reed, Medical Consultant, Still Waters Home Health Agency  
Treece, Susan, Financial Manager, Home Health Care of East Tennessee  
Tuck, Jeff, Vice President Legal Services, Summit Medical Group  
Wellborn, John, Development Support Group  
West, William H., Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz  
White, R. Brian, Consultant, Competitive Solutions  
Wright, Denise, AllCare Plus, Inc.  
Wright, Will, Esq., Stites & Harbison  
Young, Tim, CEO, Summit Medical Group  
Yunus, Furhan, M.D., UT Cancer Institute

**Vice-Chair Atchley called the meeting to order at 8:30 a.m. in the Meeting Rooms D-G of the Gaylord Entertainment Center, Nashville, Tennessee.**

## **DIRECTOR'S ANNOUNCEMENTS**

Melanie Hill, Executive Director, announced that Dyersburg Regional Medical Center, CN0509-083 and Caris Healthcare, CN0511-103 were both deferred to the March meeting.

## **CERTIFICATE OF NEED APPLICATIONS**

*Mark Farber summarized the following CON applications:*

### **Helping Hands Home Assistance, Inc. - (Knoxville, Knox County) - Project No. CN0509-082**

The establishment of a home care organization to provide home health services in the following counties: Anderson, Blount, Campbell, Claiborne, Cocke, Grainger, Hamblen, Hancock, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier and Union. The parent office will be located at the corporate offices of Helping Hands Home Assistance, Inc., at 8044 Ray Mears Blvd., Suite 104, Knoxville (Knox County), TN 37919. Project Cost \$110,426.00.

James C. Middlebrook, CEO, addressed the Agency on behalf of the project. Speaking in support were Jan Schlee and LaTonya Ellis representing State Representative Armstrong. Present in support was Sheila Cook, Board Member.

Opposing the project were: Dan Elrod, Esq., representing, Interim Home Health, NHC HomeCare and Covenant HomeCare; Sheila Cochran, Business Office Director, Priority Healthcare Services; Scott McDearman, Esq., representing, CareAll Home Care Services; Karen Bell, Director, Elk Valley Health; Brenda McClauahan, Smoky Mountain Home Health & Hospice; David Craig, Management Consultant, All Care Plus, Inc. Present in opposition were: William H. West, Esq., representing Housecall Home Healthcare, Morristown and Housecall Home Healthcare Agency, Knoxville; Warren Gooch, Esq., representing Morristown-Hamblen Home Health and Hospice and Baptist Home Care, Knoxville; Sandy Jarnagin, General Partner, Interim Healthcare of East Tennessee; Peggy Helton, Administrator, Interim Healthcare of East Tennessee; Susan Treece, Financial Manager, Home Health Care of East Tennessee; and Mike Richardson, Vice President Planning & Business Development, Covenant Health

Ms. Schlee rebutted.

Mr. Elrod provided summation for the opposition.

Ms. Schlee provided summation for the applicant.

Mr. Lammert moved for denial of the project based on: 1) Need – The applicant has not proven there is a need in this area for the services; 2) Economic Feasibility – It does not appear to be economically feasible; and 3) The project will not contribute to the orderly development of adequate and effective health care in the area. Dr. Caldwell seconded the motion. The motion CARRIED [7-0-1]. **DENIED**

AYE: Troy, Lammert, Caldwell, Weaver, Collier, Jones, Atchley

NAY: None

ABSTAINED: Koella

### **Dyersburg Regional Medical Center - (Dyersburg, Dyer County) - Project No. CN0509-083**

The establishment of a cardiac catheterization laboratory to provide cardiac diagnostic services in newly renovated space at the hospital. There are no other new services being initiated that require a Certificate of Need. Project Cost \$2,972,453.00.

## **DEFERRED TO THE MARCH MEETING**

Ms. Troy recused

**Still Waters Home Health Agency - (Memphis, Shelby County) - Project No. CN0510-087**

The establishment of a home care organization to provide home health services to any individual who qualifies for home care services including but not limited to the elderly, developmental disabled and Hispanic populations in Shelby County. The parent office will be located at 5454 Lake Village Drive, Memphis (Shelby County), Tennessee 38125. Project Cost \$21,840.00.

Linnie Reed Traylor, addressed the Agency on behalf of the project.

Dr. Caldwell moved for approval of the project based on: 1) Need – Basis is on need, the letters from the Division of Mental Retardation and the letters from Mid-South Arc indicates there is a need without regard to the Hispanic population; 2) Economic Feasibility – The project is economically feasible; and 3) The Shelby County Hispanic population is increasing and the fact that Still Waters has developed a network of people that speak Spanish and can get them into the network will improve the orderly development of adequate and effective health care. Ms. Weaver seconded the motion. The motion CARRIED [6-1-0]. **APPROVED**

AYE: Koella, Caldwell, Weaver, Collier, Jones, Atchley

NAY: Lammert

**Bristol Regional Medical Center - (Bristol, Sullivan County) - Project No. CN0510-088**

The establishment of an outpatient diagnostic center (ODC), acquisition of magnetic resonance imaging (MRI) unit, and initiation of MRI services. The facility will seek licensure as an ODC from the Department of Health. Project Cost \$5,269,430.00.

Byron Trauger, Esq., representing the applicant, addressed the Agency. Dr. William Johnstone spoke on behalf of the project. Present in support were Bart Hove, CEO and Jason Searcy, Planning Analyst.

Mr. Koella moved for approval of Wellmont Bristol Regional Medical Center to establish an outpatient diagnostic center (ODC) and for the acquisition of a magnetic resonance imaging (MRI) unit and a computerized tomography (CT) unit and for the initiation of MRI services based on: 1) Need – The need is clear from the strong growth in the procedures within the hospital and the region. Within the hospital they were averaging more than 3,300 per machine; 2) Economic Feasibility – The project is economically feasible with cash reserves of the parent; and 3) The project does contribute to the orderly development of adequate and effective health care as they are a TennCare provider and are properly licensed. Mr. Lammert seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Caldwell, Weaver, Collier, Jones, Atchley

NAY: None

**Unity Hospice - (Linden, Perry County) - Project No. CN0511-097**

The establishment of a home care organization to provide hospice services in the counties of Perry, Humphreys, Decatur, Hardin, Henderson, Lawrence, Lewis and Wayne. The location of the parent office will be 312 Squirrel Hollow Road, Linden (Perry County), TN. Project Cost \$107,868.00.

William West, Esq., representing the applicant, addressed the Agency. Robert Leech, COO, spoke on behalf of the project.

Speaking in opposition of the project were: Mike Hinson, Tennessee Quality Hospice; and Dan H. Elrod, Esq., representing Hospice of West Tennessee. Present in opposition were Andy Gardner, Director, Hospice of West Tennessee and James E. Ross, Hospice of West Tennessee.

Mr. West rebutted.

Mr. Elrod and Mr. Hinson provided summation for the opposition.

Mr. West provided summation for the applicant.

Mr. Lammert moved for approval of the project based on: 1) Need – The need is proven in the service area as they are an organization that has a great deal of experience of working in rural areas with hospice patients; 2) Economic Feasibility – The project is economically feasible; and 3) The project will contribute to the orderly development of adequate and effective health care in these rural areas. Ms. Troy seconded the motion. The motion CARRIED [7-0-1]. **APPROVED**

AYE: Troy, Lammert, Koella, Caldwell, Weaver, Collier, Atchley

NAY: None

ABSTAINED: Jones

**Summit Medical Group at Fountain City - (Knoxville, Knox County) - Project No. CN0511-098**

The acquisition of a magnetic resonance imaging unit (MRI) and the initiation of outpatient MRI services limited to the patients and physicians of the practice only. Project Cost \$1,987,854.00.

Richard Lodge, Esq., representing the applicant, addressed the Agency. Tim Young, CEO; Jack C. Clark, Jr., M.D.; and Jack Kam, Vice President Clinical Services spoke on behalf of the project. Present in support were: Jeff Tuck, Vice President Legal Services; and John Wellborn, Consultant.

Opposing the project were: Jerry W. Taylor, Esq., representing, University of Tennessee Medical Center and St. Mary's Health System; and Eli Matijevich, Senior Vice President, St. Mary's Health System. Present in opposition was Jeremy Biggs, St. Mary's Health System.

Mr. Lodge rebutted.

Mr. Taylor provided summation for opposition.

Mr. Lodge provided summation for the applicant.

Dr. Caldwell moved for approval of the project based on: 1) Need – The need has been demonstrated as they already do the MRIs; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. When the new St. Mary's Hospital is completed the patients and the Summit physicians will be provided better access to care in the Fountain City area. Ms. Weaver seconded the motion. The motion CARRIED [5-3-0]. **APPROVED**

AYE: Koella, Caldwell, Weaver, Collier, Atchley

NAY: Troy, Lammert, Jones

*Ms. Troy left meeting.*

**Franklin Endoscopy Center, PLLC - (Franklin, Williamson County) - Project No. CN0511-099**

The establishment of an ambulatory surgical treatment center (ASTC) with two (2) surgical treatment suites for endoscopic procedures performed by the center's staff. Project Cost \$747,488.00.

Frank Grace, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: Max Caudill, M.D.; Wilmot C. Burch, M.D. and Brian White, Consultant, Competitive Solutions.

Opposing the project were: William H. West, Esq., representing, Williamson Medical Center; and Dennis E. Miller, CEO, Williamson Medical Center. Present was Rodger Klein, COO, Williamson Medical Center was present in opposition.

Mr. Grace and Dr. Caudill rebutted.

Mr. West provided summation for the opposition.

Mr. Grace provided summation for the applicant.

Mr. Koella moved for approval for the establishment of a single specialty ambulatory surgical treatment center (ASTC) limited to endoscopy: 1) Need – The need is here from the growth in the population not only

in the county but the pool of people who will need this procedure in the coming years; 2) Economic Feasibility – The project is economically feasible through real estate lease and commercial loan; and 3) The project does contribute to the orderly development of adequate and effective health care as they are licensed. Mr. Lammert seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Lammert, Koella, Caldwell, Weaver, Collier, Jones, Atchley

NAY: None

#### **Maury Regional Hospital - (Columbia, Maury County) - Project No. CN0511-102**

The conversion of eleven (11) unlicensed bassinets to an eight (8) licensed bed neonatal intensive care unit (NICU) and the initiation of neonatal intensive care services. The proposed NICU will be located on the fourth floor of the hospital. The 275 licensed bed complement of the facility will not increase as a result of this project. Project Cost \$78,000.00.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency. Charles Ball, M.D., Medical Director spoke on behalf of the project. Present in support were: Ron Pope, Associate Administrator; Judy Aschner, M.D., Professor of Pediatrics, Chief of Neonatology, Vanderbilt's Children Hospital; Ed Day, Consultant; Mickie DeHaven, Director Women's/Children's Services, and Brenda Hogan, RN, Clinical Outgoing Manager.

Mr. Lammert moved for approval of the project for the conversion of eight (8) medical/surgery beds (four (4) obstetrical and four (4) pediatric beds) to eight (8) neonatal intensive care beds and the initiation of neonatal intensive care services: 1) Need – There is a need for these beds; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care and will benefit the community significantly in Maury and surrounding counties. Mr. Jones seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Lammert, Koella, Caldwell, Weaver, Collier, Jones, Atchley

NAY: None

#### **Caris Healthcare - (Nashville, Davidson County) - Project No. CN0511-103**

The relocation of the parent office from 701 West 7th Street, Suite C, Columbia (Maury County), TN to The Oaks Complex at 1101 Kermit Drive, Suite 501, Nashville (Davidson County), TN. The service area includes: Bedford, Cheatham, Davidson, Dickson, Franklin, Giles, Hardin, Hickman, Houston, Humphreys, Lawrence, Lewis, Lincoln, Marshall, Maury, Montgomery, Moore, Perry, Rutherford, Stewart, Wayne and Williamson counties. No change to the existing service area is proposed. Project Cost \$57,938.00.

#### **DEFERRED TO THE MARCH MEETING**

*Dr. Caldwell left meeting..*

#### **UT Cancer Institute - (Germantown, Shelby County) - Project No. CN0511-105**

The acquisition of a combination positron emission tomography (PET) and computerized tomography (CT) unit and the initiation of outpatient PET scanning in leased space. The project is limited to UT Cancer Institute patients and physicians of the practice only. Project Cost \$5,475,937.00.

Richard Lodge, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: Tynan Perschbacher, Senior Associate, Oncology Solutions, LLC; Furhan Yunus, M.D.; and Phil Sydow, CEO. Present in support were: Mohammad Jahanzeb, M.D., and John Wellborn, Consultant.

Mr. Koella moved for approval of the project for the acquisition of a combination PET/CT unit and the initiation of PET services 1) Need – The need is clear as we have seen that the number of indications for PET increase from five (5) to twenty-two (22) just in the past year; 2) Economic Feasibility – The project is economically feasible through a combination of equipment lease and cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care because of the license of the entity and their TennCare provisions. Mr. Jones seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

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AYE: Lammert, Koella, Weaver, Collier, Jones, Atchley  
NAY: None

## **GENERAL COUNSEL'S REPORT**

### **Fentress Health Systems - (Jamestown, Fentress County) - Project No. CN0312-122A**

Request for a six (6) month extension of the expiration from April 1, 2006 to October 1, 2006 and an increase in project costs from \$3,309,720 to \$3,639,720, an increase of less than 10%. This application was originally approved on February 25, 2004. Project Cost \$3,639,720.00.

Jerry W. Taylor, Esq., representing the Fentress Health Systems, addressed the Agency.

Mr. Koella moved for approval of the request to extend the expiration date to October 1, 2006 as the guidelines have been expressed and the proof previously, and increase the project cost to \$3,639,000. Dr. Collier seconded the motion. The motion CARRIED by unanimous voice vote [6-0-0]. **APPROVED**

AYE: Lammert, Koella, Weaver, Collier, Jones, Atchley  
NAY: None

## **OTHER BUSINESS**

Audit Charges – Documentation has been received from the Comptroller's office. Staff will continue to work with Finance & Administration and await direction from the Agency members. This matter will be discussed further at the March meeting.

Meeting Dates – The November meeting will be held on the third Wednesday which is November 15, 2006. The December meeting options are December 13, 2006 and December 20, 2006 the latter being preferable by staff and the Department of Health.

Budget – The proposed budget for Fiscal year 2006/2007 was presented to the Senate General Welfare Committee on February 15, 2006. Additional questions on the 2004 Audit related to the criteria and standards for Certificate of Need being outdated and related issues, and the Agency's reserve fund being \$947,100. Questions included whether Certificate of Need filing fees should be lowered due to high reserve fund dollars. A written response was submitted which will be forwarded to the members.

## **CURRENT REPORTS**

### **Statistical Reports**

The reports were accepted into the record.

### **Finance, Ways and Means Committee Reports**

The reports were accepted into the record.

### **Minutes**

The minutes of the January 25, 2006, meeting was accepted by unanimous voice vote.

## **ADJOURNMENT**

There being no further business, the meeting adjourned.

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Melanie M. Hill, Executive Director

MMH/mab